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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,071	12/01/2003	Peter J. Myers	20014/38779-A	2761

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EXAMINER	
CONLEY, FREDRICK C	

ART UNIT	PAPER NUMBER
3673	

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08/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/725,071	MYERS ET AL.	
	Examiner	Art Unit	
	FREDRICK C. CONLEY	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 June 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19,21-26,30-36,39-42 and 46-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *6-11,30-34,39-42,47 and 48* is/are allowed.

6)☒ Claim(s) *1-5,12-19,21-26,35,36 and 46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/4/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 36 are rejected under 35 U.S.C. 102(b) as being anticipated by 4,188,745 to Harvey et al.

Claim 36, Harvey discloses a method comprising:

securing a play gym 10 to a play yard (col. 3 lines 14-17); such that the play gym is connected to separate floor mat defined by a base 34 and not in direct contact with a floor mat of the at least one bassinet and the play yard;

removing the play gym from the play yard; removing the floor mat from the play yard; and securing the play gym to the mat defined by the base 34 apart from the play gym.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 13, 17-19, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6.418,575 to Cheng in view of 4,188,745 to Harvey, and further in view of U.S. Pat. No. 6,640,985 to Cheng.

Claims 1-2 and 24-25, Cheng discloses an apparatus comprising a play yard 100 and a bassinet 200 having a floor mat 240 dimensioned to substantially cover a floor of the bassinet (fig. 3) coupled to the play yard via fastener (264)(fig. 2)(col. 5 lines 34-40). Cheng fails to disclose a play gym to suspend an object above the floor mat with at least one connector to couple the play gym to the mat. Harvey discloses a play gym 10 with a connector (32,46) and a mat defined by a base 34 and coupling the play gym to a play pen (col. 3 lines 14-17). It would have been obvious at the time of the invention to employ the play gym and connector as taught by Harvey in order to entertain the infant while in the bassinet of Cheng. Regarding claims 2 and 24-26, the connector of Harvey is capable of coupling the play gym to the mat and is capable of being removed from the play yard and the bassinet. Harvey fails to a play gym coupled to the play yard such that a lowest portion is spaced above a floor mat. Cheng '985 discloses a play gym coupled to a play yard (fig. 8). It would have been obvious for one having ordinary skill in the art

at the time of the invention to attach the gym as taught by Cheng '985 in order to provide a play gym that can be detachably fitted above the play yard (col. 1 lines 30-34).

Claim 3, Cheng, as modified, discloses the apparatus as defined in claim 1 as stated above, wherein the connector of Harvey comprises a non-pivoting member located within the perimeter of the floor mat and accessible from a top of the floor mat and capable of being located within the play yard or bassinet; and Cheng discloses a fastener 264 to couple the floor mat to at least one of the play yard via the bassinet.

Claim 4, Cheng, as modified, discloses the apparatus as defined in claim 1 as stated above, wherein the connector 32 of Harvey directly couples the play gym to the mat 34.

Claim 13, Cheng, as modified, discloses the apparatus as defined in claim 1 as stated above, further comprising the at least one of the play yard and the bassinet wherein Harvey discloses the connectors 46 capable of coupling the play gym to the play yard (col. 3 lines 14-15).

Claim 17, Cheng, as modified, discloses the apparatus as defined in claim 1 as stated above, wherein the play gym comprises at least one leg defining an arch (fig. 1). An arch is defined as a flat upper edge of an opening. Since the leg of Harvey clearly illustrates a flat upper edge of an opening thus it is considered an arch.

Claims 18-19, Cheng, as modified, discloses the apparatus as defined in claim 1 as stated above, wherein the connector of Harvey 32 is located in a top surface of the mat 34 and is not pivotally connected.

Claims 22-23, 26, 36, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,640,985 to Cheng in view of 4,188,745 to Harvey.

Claim 23, 26, and 46, Cheng discloses a play yard comprising:

a mat;

a plurality of connectors (3,311) having a position outside the perimeter of the mat (fig. 8); and a play gym to be removably coupled to the connectors to suspend an object above the mat and a bassinet as a floor of the at least one of the play yard. Cheng fails to disclose a floor mat and a play gym to suspend an object above the mat with at least one connector to couple the play gym to the mat. Harvey discloses a play gym 10 with a connector (32,46) and a mat defined by a base 34 and coupling the play gym to a play yard (col. 3 lines 14-17). It would have been obvious at the time of the invention to employ the play gym and connector as taught by Harvey in order to entertain the infant while lying on the mat of Cheng.

Claim 22, Cheng in view of Harvey discloses the play yard as defined in claim 23, wherein the connectors (3,311) of Cheng are pivotally connected via pivot bolts 12.

Claim 36, Cheng discloses a method comprising:

securing a play gym at least partially above a play yard such that the play gym is not in contact with a floor mat of the play yard (fig. 8). Cheng fails to disclose removing the play gym from the play yard; removing the floor mat from the play yard and; securing the play gym to the floor mat apart from the play gym and the play yard. Harvey discloses a method comprising securing a play gym 10 to a play yard (col. 3 lines 14-17); such that the play gym is connected to

separate floor mat defined by a base 34 and not in direct contact with a floor mat of the at least one bassinet and the play yard; removing the play gym from the play yard; removing the floor mat from the play yard; and securing the play gym to the mat defined by the base 34 apart from the play gym. It would have been obvious at the time of the invention to employ the play gym and connector as taught by Harvey in order to entertain the infant while lying on the mat of Cheng.

Claims 5, 12, 14-16, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6.418,575 to Cheng in view of 4,188,745 to Harvey , U.S. Pat. No. 6,640,985 to Cheng as applied to claims 1-4, 12-13, 17-19, as stated above, and further in view of U.S. Pat. No. 5,930,854 to O'Neil et al.

Claims 5, 16, and 35, Cheng, as modified, discloses a plurality of connectors 264, Cheng fails to disclose a hub and legs biased away from a center of the floor mat. O'Neil discloses a play gym having a hub 20 having a slot with two flexible legs 26 with a first end coupled to the hub and a second end coupled to a connector 16 that are biased away from a center of a support. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ the hub and legs as taught by O'Neil in order to provide an alternate design to the frame work of the play gym of Cheng.

Claim 12, Cheng, as modified, discloses the apparatus as defined in claim 5 as stated above, wherein the at least two legs (12,14) of Harvey are flexible via the slidable width adjustment indicated by arrow 27.

Claim 14-15, Cheng, as modified, fails to disclose fabric pockets. O'Neil discloses an apparatus defining a play pen having fabric pockets 16. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ fabric pockets as taught by O'Neill in order to provide a means to secure the play gym to the play yard of Cheng.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,640,985 to Cheng in view of 4,188,745 to Harvey as applied to claims 22-23, as stated above, and further in view of U.S. Pat. No. 6,539,563 to Hsia.

Claim 21, Chen, as modified, discloses all of the Applicant's claimed limitations except for the mat comprising a padded board. Hsia discloses a play yard having a padded board defined by a fabric bassinet shelter 42 with a supporting board 43. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a padded board as taught by Hsia in order to provide a bassinet arrangement for the play yard.

Allowable Subject Matter

Claims 6-11, 30-34, 39-42, and 47-48 are allowed.

Response to Arguments

Applicant's arguments filed 6/04/07 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Although Harvey discloses that a mattress may be placed on top of the base between the tubes 14, the Applicant mischaracterizes the teachings of Harvey. As pointed out by the Applicant, Harvey explicitly states that an infant can be placed on top of the flat base with the play objects suspended above (col. 3 lines 10-12) and that the entire device 10 could be used in a playpen or any other flat surface used for placing an infant thereon (col. 3 lines 15-17). Therefore, the play gym of Harvey is clearly capable of being connected to the separate mat defined by a base 34 and may not come into direct contact with a floor mat of the bassinet or the play yard since the base 34 is capable of being placed on top of a flat surface such as a mattress wherein the infant is placed on top of the flat base 34 while being used in a playpen or bassinet.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Cheng '985 discloses a play gym coupled by connectors to suspend an object above a play yard. Harvey discloses an alternative non-pivoting connector for a play gym 10 that is connected within a perimeter of a mat defined by a base 34 and accessible through a top of the mat. The combination as a whole would suggest employing a play gym with alternative connections between the play yard or a mat in order to entertain the infant while lying in a supine position on the mat or standing up in the play yard.

Applicant's arguments with respect to claims 1-4, 13, 17-19, and 24-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC

PATRICIA ENGLE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

8-17-07